

WAIVING CERTAIN PROVISIONS OF SECTION 212 (A) OF
THE IMMIGRATION AND NATIONALITY ACT IN BE-
HALF OF CERTAIN ALIENS

MARCH 13, 1956.—Committed to the Committee of the Whole House and ordered
to be printed

Mr. FEIGHAN, from the Committee on the Judiciary, submitted the
following

R E P O R T

[To accompany H. J. Res. 566]

The Committee on the Judiciary, to whom was referred the joint resolution (H. J. Res. 566) to waive certain provisions of section 212 (a) of the Immigration and Nationality Act in behalf of certain aliens, having considered the same, report favorably thereon with amendments and recommend that the joint resolution do pass.

The amendments are as follows:

On page 1, line 8, strike out the word "provision" and substitute in lieu thereof the word "provisions".

On page 1, line 9, after "(a)", insert "(17) and".

On page 2, beginning on line 8, after "SEC. 4.", strike out the remainder of line 8, and all of lines 9, 10, 11, and 12, and insert in lieu thereof the following:

In the administration of the Immigration and Nationality Act, Gertrud Koch, the fiance of Frank J. Kleczewski, a citizen of the United States, shall be eligible for a visa as a nonimmigrant temporary visitor for a period of three months: *Provided*, That the administrative authorities find that the said Gertrud Koch is coming to the United States with a bona fide intention of being married to the said Frank J. Kleczewski and that she is found otherwise admissible under the immigration laws other than the provisions of section 212 (a) (9) and (28) (C) (iv) of the Immigration and Nationality Act. In the event the marriage between the above-named persons does not occur within three months after the entry of the said Gertrud Koch, she shall be required to depart from the United States and upon failure to do so shall be deported in accordance with the provisions of sections 242 and 243 of the Immigration and Nationality Act. In the event the marriage between the above-named persons shall occur within three months after the entry of the said Gertrud Koch, the Attorney General is authorized and directed to record the lawful admission for permanent residence of the said Gertrud Koch as of the date of the payment by her of the required visa fee.

PURPOSE OF THE JOINT RESOLUTION

The purpose of the joint resolution, as amended, is to facilitate the admission into the United States of six aliens, notwithstanding certain provisions of section 212 (a) of the Immigration and Nationality Act.

The resolution has been amended to correct errors in drafting.

GENERAL INFORMATION

The committee, desiring to lighten the burden of the Chief Executive and to shorten the time required for the consideration of Private Calendars on the floor of the House, has decided to include the names of several beneficiaries of pending bills in one joint resolution, after having considered each of the cases on their individual merits and having acquainted themselves with all the facts pertinent to each case.

The beneficiaries of this joint resolution were the subjects of individual bills, as follows:

H. R. 934, by Mr. Cole

H. R. 1237, by Mr. Mason

H. R. 1332, by Mr. Phillips

H. R. 1335, by Mr. Phillips

H. R. 3021, by Mr. Baldwin

H. R. 5383, by Mr. Cole

A discussion of each case included in the joint resolution, with reports from the departments of the administration and such additional information as was obtained by the committee, appears below in the order that those cases appear in the resolution, as amended.

Mrs. Emmy Rothe Hirsch—H. R. 934, by Mr. Cole

The beneficiary is a 31-year-old native and citizen of Germany who is the wife of a United States citizen serviceman. She is inadmissible because of three convictions for theft in Germany.

The pertinent facts in this case are contained in a letter, dated November 9, 1955, from the Commissioner of Immigration and Naturalization to the chairman of the Committee on the Judiciary. That letter and accompanying memorandum read as follows:

UNITED STATES DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington 25, D. C., November 9, 1955.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington 25, D. C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H. R. 934) for the relief of Mrs. Emmy Rothe Hirsch, there is attached a memorandum of information concerning the beneficiary. This memorandum has been prepared from the Immigration and Naturalization Service files relating to the beneficiary by the Washington, D. C., office of this Service, which has custody of those files.

The bill would waive the provision of the Immigration and Nationality Act which excludes from admission into the United States aliens who have been convicted of a crime involving moral turpitude, and would authorize the alien's admission to the United States for permanent residence if she is found to be otherwise admissible. The bill does not specifically limit the exemption granted the beneficiary to grounds for exclusion of which the Department of State or the Department of Justice has knowledge prior to the date of enactment of the bill.

Sincerely,

_____, Commissioner.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE MRS. EMMY ROTHE HIRSCH, BENEFICIARY OF H. R. 934

The beneficiary's maiden name was Emmy Frieda Martha Rothe. She was born on July 27, 1924, in Spreenhagen, Kreis Beeskow-Storkow, Germany. On June 3, 1954, she married Philip R. Hirsch at Munich, Germany. She is unemployed and is dependent upon her husband for support. The beneficiary has never been in the United States. She states that on June 20, 1952, she applied for a visa at the American consulate at Munich, Germany, and that he declined to issue such visa on the ground that she had been convicted on a charge of petty larceny. The beneficiary states that she had been arrested in Munich, Germany, in 1942 for the theft of one pair of shoes, and misappropriation of a food ration card.

The beneficiary's husband, Philip R. Hirsch, states he is a citizen of the United States and that he was born in Columbus, Ohio, on February 2, 1912. He further states that he has been a member of the United States Army since April 7, 1942, and is presently a sergeant in the United States Army stationed at La Rochelle, France, where he resides with his wife, the beneficiary. His Army serial number is RA32280099. Sergeant Hirsch states that he first met the beneficiary while stationed in Germany in 1947; that they were married there in 1954; and that they have no children. Sergeant Hirsch's father and one brother reside in the United States. He has no one dependent upon him for support in the United States. His income as a sergeant in the United States Army is \$3,644.40 per year.

The committee may wish to communicate with the Bureau of Security and Consular Affairs of the Department of State for additional information in this case.

The Department of State also submitted a report on this case which is printed below:

DEPARTMENT OF STATE,
Washington, June 27, 1955.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CELLER: Reference is made to your letter of April 5, 1955, and its enclosures wherein you requested a report of the facts in the case of Mrs. Emmy Rothe Hirsch, beneficiary of H. R. 934, 84th Congress, 1st session.

There is enclosed a copy of a self-explanatory communication dated June 3, 1955, from the American consulate at Munich, Germany.

At this time the Department has no knowledge of any factor in Mrs. Hirsch's case, other than the information hereinbefore cited, which would render her ineligible to receive an immigrant visa. However, it should be borne in mind that any other ground of ineligibility which may come to light prior to visa issuance would preclude her from receiving a visa.

Sincerely yours,

ROLLAND WELCH,
Director, Visa Office.

Enclosure from American consul, Munich, Germany, June 3, 1955.

OPERATIONS MEMORANDUM

JUNE 3, 1955.

To: Department of State.

From: Anconore, Munich, Germany.

Subject: Visas—Immigrant case of Emmy B. Hirsch, nee Rothe.

Ref: UOMV No. 734 of May 16, 1955.

The dossier of Kesa Rothe was submitted to the consulate general on February 3, 1954, by Headquarters Base Section, USAREUR Communications Zone, APO 21, United States Army, in connection with the application made by Sfc. Phillip R. Hirsch to marry Miss Rothe. This was done in accordance with prevailing practice to determine whether Miss Rothe would be admissible to the United States after her marriage to her American citizen fiancé.

The investigation conducted in Miss Rothe's case revealed the following convictions:

August 26, 1941: County court, Berlin—2 weeks' juvenile detention for theft.

August 20, 1942: County court, Fuerstenwalde—6 weeks' jail for theft.

December 5, 1942: County court, Frankfurt/Oder—4 months' jail for theft.

August 31, 1943: State court, Frankfurt/Oder—2 months' jail for refusal to work.

October 6, 1943: County court, Fuerstenwalde—9 months' jail for theft and breaking of work contract.

Sergeant Hirsch's unit commander was informed on February 23, 1954, that Miss Rothe appeared ineligible for an immigration visa under section 212 (a) (9) of the Immigration Act.

As all of the above-cited convictions took place in the Eastern Zone of Germany it is not possible to obtain copies of the pertinent court records. This applicant is not entitled to reconsideration of her case under Public Law 770, 83 Congress, section 4.

In response to their individual inquiries both Sergeant Hirsch and his father, Mr. Louis A. Hirsch, were informed on September 23, 1952, and November 7, 1952, respectively, that a previous marriage dossier submitted to us on May 19, 1952, by appropriate Army authorities had been returned to the unit because of Miss Rothe's ineligibility to receive an immigrant visa.

Mr. Cole, the author of H. R. 934, submitted the following letter in support of his bill:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D. C., March 29, 1955.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington 25, D. C.

DEAR MR. CHAIRMAN: I write to ask if you will please request a departmental report on House Resolution 934 for the relief of Mrs. Emmy Rothe Hirsch. This bill was originally introduced in the 83d Congress as H. R. 9990.

Mrs. Hirsch is the wife of a career Army man who is a legal resident of my Congressional District. During World War II, and under the chaotic living conditions which existed in Germany during that time, she was convicted of four separate offenses. One of these offenses, however was political and one was a matter of juvenile delinquency and, therefore, only two acts of petty larceny now preclude her entrance into the United States as the wife of an American citizen.

Mrs. Hirsch presently resides with her husband near La Rochelle, France. Her husband's military address is: Sfc. Philip H. Hirsch, Headquarters and Headquarters Company, 7810th Station, Complement Base, APO 21, New York, N. Y.

I have carefully investigated this case on all possible levels and I am convinced of its merit and I respectfully request that a hearing be scheduled on H. R. 934 as soon as practicable after you receive a report from the Department of State.

Sincerely yours,

STERLING COLE,
Member of Congress.

Mrs. Betty W. Webster—H. R. 5383, by Mr. Cole

Mrs. Webster is a native and citizen of Great Britain who is 27 years old. She married her United States citizen husband in England in 1954 while he was a member of the United States Air Force, and they are the parents of one United States citizen child. Mrs. Webster is inadmissible to the United States because of a conviction in England in 1950 for the commission of a crime involving moral turpitude.

The pertinent facts in this case are contained in a letter dated July 12, 1955, from the Commissioner of Immigration and Naturalization to the chairman of the Committee on the Judiciary. That letter and accompanying memorandum read as follows:

UNITED STATES DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington 25, D. C., July 12, 1955.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H. R. 5383) for the relief of Mrs. Betty W. Webster, there is attached a

memorandum of information concerning the beneficiary. This memorandum has been prepared from the Immigration and Naturalization Service files relating to the beneficiary by the Buffalo, N. Y., office of this Service, which has custody of those files.

The bill would authorize the beneficiary's admission to the United States for permanent residence notwithstanding the excluding provisions of sections 212 (a) (9) and 212 (a) (11) of the Immigration and Nationality Act relating to aliens convicted of crimes involving moral turpitude and aliens who are polygamists or who practice polygamy, if she is found to be otherwise admissible under the provisions of that act.

Sincerely,

— — — — —, *Commissioner.*

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE MRS. BETTY W. WEBSTER, BENEFICIARY OF H. R. 5383

The beneficiary, Mrs. Betty W. Webster, a native and citizen of Great Britain, was born on September 16, 1928, in Luton, England. According to the records of this Service, she has also been known as Betty Winifred West and Betty Winifred Burns, nee Lee. She was first married to a Mr. James West, on June 14, 1947, in England. This union, which terminated by divorce in September 1953, resulted in the birth of two children who now reside in legal custody with their father in England. While still legally married to Mr. West, the beneficiary entered into a marriage with Mr. Stanley Burns in November 1950, but such marriage has been declared a nullity. No children were born of this illegal relationship. On June 24, 1954, she married Duane Vernon Webster, a United States citizen by birth, at Margate, England, while he was stationed abroad in the United States Air Force. They are the parents of Anthony Webster, born October 12, 1953, at Thanet, Margate, England, who was admitted to this country as a United States citizen with his father at Buffalo, N. Y., on April 11, 1955, and now resides with the family at 288 Main Street, Johnson City, N. Y. The beneficiary's education includes the completion in England of what is the equivalent of American grammar school. She possesses no special skills, has worked as a waitress, but is not presently employed.

The beneficiary's only entry into the United States occurred at Buffalo, N. Y. on April 12, 1955, at which time she was admitted as a visitor. Deportation proceedings have been instituted on the ground that, at the time of entry, she was not a bona fide visitor but an immigrant who was not in possession of a valid immigrant visa and not exempted from the presentation thereof. A hearing under the outstanding warrant of arrest will be scheduled in the immediate future.

Mrs. Webster stated that she was convicted in London, England, in November 1950, of the commission of the crimes of bigamy and of obtaining money under false pretenses (allotment checks). Sentences of 6 months and 9 months were imposed, to run concurrently, as a result of those 2 convictions. Both of the convictions arose as a consequence of her bigamous marriage to Mr. Burns. Mrs. Webster advised that she had been refused an immigrant visa by the American consul, London, England. The committee may desire to request the Bureau of Security and Consular Affairs, Department of State, to secure information in this connection.

The previous marriage of Duane Vernon Webster, beneficiary's husband was terminated by annulment in 1950. He served honorably in the United States Air Force from 1950 to 1954. Mr. Webster is presently employed as a watchmaker by a jewelry firm in Binghamton, N. Y., at a weekly wage of \$65. The family has no tangible assets at present other than personal effects.

The Director of the Visa Office, Department of State, submitted a report on this case which reads as follows:

DEPARTMENT OF STATE,
Washington, June 21, 1955.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CELLER: Reference is made to your letter of May 9, 1955, and its enclosures, wherein you requested a report of the facts in the case of Mrs. Betty W. Webster, beneficiary of H. R. 5383, 84th Congress, 1st session.

There is enclosed a copy of a self-explanatory communication dated March 30, 1955, from the American Embassy at London, England.

At this time the Department has no knowledge of any factor in Mrs. Webster's case, other than the information hereinbefore cited, which would render her ineligible to receive an immigrant visa. However, it should be borne in mind that any other ground of ineligibility which may come to light prior to visa issuance would preclude her from receiving a visa.

Sincerely yours,

ROLLAND WELCH,
Director, Visa Office.

Enclosure from American Embassy, London, March 30, 1955 (in duplicate).

OPERATIONS MEMORANDUM

MARCH 30, 1955.

To: Department of State (OMV No. 572).
From: American Embassy, London (SSC—).
Subject: Visas—Immigrant case of Mrs. Duane V. Webster.
Ref: Department's OMV-385 of March 22, 1955.

Mrs. Betty Winifred Webster, also known as West and Lee, the wife of Duane V. Webster, registered with the Embassy as an intending immigrant on August 25, 1954, and was informally refused under section 212 (a) (9) of the act on October 6, 1954. The two conviction records in the case are reproduced below:

It may be noted that Mrs. Webster actually served only 6 months in prison as she was given 3 months off for good behavior.

"CENTRAL CRIMINAL COURT TO WIT:

"These are to certify that at the general session of the delivery of the lawfully appointed prisons holden for the jurisdiction of the central criminal court at the central criminal court in the Old Bailey, city of London, on the 13th day of November 1951 Betty Winifred West was in due form of law convicted on indictment for that she on the 4th day of October 1950 married Stanley Burns during the life of her husband James West, and that the said Betty Winifred West was ordered to be imprisoned 6 months concurrent with a sentence on another indictment.

"Dated the 21st day of September 1954."

"CENTRAL CRIMINAL COURT TO WIT:

"These are to certify that at the general session of the delivery of the lawfully appointed prisons holden for the jurisdiction of the central criminal court at the central criminal court in the Old Bailey, city of London, on the 13th day of November 1951 Betty Winifred West was in due form of law convicted of indictment for that she with intent to defraud obtained £2 9s. 0d. and £2 9s. 0d. from His Majesty's Postmaster General by false pretences and that the said Betty Winifred West was ordered to be imprisoned 9 months concurrent with a sentence on another indictment.

"Dated the 21st day of September 1954.

"———, Clerk of the Court."

Mr. Cole, the author of H. R. 5383, submitted the following letter in support of his bill:

DEPARTMENT OF THE AIR FORCE,
Washington, March 29, 1955.

Hon. W. STERLING COLE,
House of Representatives.

DEAR MR. COLE: I refer to your further expression of interest in behalf of Mr. Duane V. Webster concerning his desire to bring his wife, who is a British citizen, to the United States.

I have been informed that Mr. Webster met his wife while he was a member of the Air Force, stationed in England. When they decided to get married, he made application to his immediate commander for permission to marry a foreign national.

When such applications are submitted, the background of the airman's prospective spouse is investigated. The Air Force has retained an English firm to conduct such investigations. In this instance, the English firm conducted an investigation into the background of Mr. Webster's prospective spouse and found no derogatory information. Mr. Webster's application was, therefore, approved. They were married on June 24, 1954. They lived together and enjoyed every privilege and recognition extended any other Air Force family. He obtained a

class Q allotment for his wife and was permitted to designate her as beneficiary to receive, in case of his death, his national service life insurance. Approximately 6 weeks prior to the date he was scheduled to return to the United States, Mr. Webster applied to the American Embassy in London, England, for a visa for his wife in order that she might come to America with him. He indicated on the application form that his wife had two convictions by an English court. They were for bigamy and accepting money under false pretenses. On the basis of the information contained in the charge sheets used at the trial, the application was denied. The news was a great disappointment and has brought much mental anguish to both of these young people. The matter of travel visas or entry permits on which foreign nationals may visit the United States is entirely outside the jurisdiction of the Air Force. It is hoped, however, that some means may be found whereby this young couple may be reunited.

Your continued interest in Air Force activities is appreciated.

Sincerely yours,

JOE W. KELLY;

Major General, USAF Director, Legislative Liaison.

Armando Alfaro-Arciniega—H. R. 1332, by Mr. Phillips

The beneficiary is a 37-year-old native and citizen of Mexico who is the husband of a United States citizen and the father of four United States citizen children. He entered the United States as a visitor upon the presentation of an identity card belonging to another person. He is presently residing in Mexico, having been permitted to depart voluntarily in 1953, and his wife and children have been receiving assistance from State funds since his absence.

The pertinent facts in this case are contained in a letter dated October 1, 1954, from the Commissioner of Immigration and Naturalization to the then chairman of the Committee on the Judiciary regarding a bill (H. R. 10022) pending during the 83d Congress for the relief of the same person. That letter and accompanying memorandum read as follows:

UNITED STATES DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington 25, D. C., October 1, 1954.

Hon. CHAUNCEY W. REED,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: In response to your request of the Department of Justice for a report relative to the bill (H. R. 10022) for the relief of Armando Alfaro-Arciniega, there is attached a memorandum of information concerning the beneficiary. This memorandum has been prepared from the Immigration and Naturalization Service files relating to the beneficiary by the Los Angeles, Calif., office of this Service which has custody of those files.

The bill provides that the beneficiary shall be held and considered to have been lawfully admitted to the United States as of the date of its enactment, upon payment of the required visa fee.

The beneficiary is not in the United States and the bill is apparently intended to exempt him from the excluding provisions of sections 212 (a) (16) and (19) of the Immigration and Nationality Act, although no specific reference is made to those sections in the bill.

Sincerely,

— — — — —, Commissioner.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE
FILES RE ARMANDO ALFARO-ARCINIEGA, BENEFICIARY OF H. R. 10022

The beneficiary, Armando Alfaro-Arciniega, is a native citizen of Mexico. He has also been known as Ricardo Lemos-Martinez and Aramendo Martinez-Lemus. He was born August 18, 1918, in Mexico City, D. F., Mexico. The beneficiary has made four entries into the United States. He first entered on January 19, 1943, at El Paso, Tex., under contract to the War Food Administration. He abandoned his contract without permission in May 1945 and was

arrested by this Service in July 1945. He was permitted to depart voluntarily to Mexico on July 18, 1945. He next entered the United States on October 21, 1945, at Sasabe, Ariz., in the identity of Ricardo Lemos-Martinez for a temporary visit of 25 days. On January 25, 1946, he was again arrested by this Service and was deported to Mexico on April 4, 1946. He again entered the United States without inspection near Calexico, Calif., on September 15, 1946, and was arrested by this Service on June 2, 1949. On June 17, 1949, he was permitted to depart voluntarily to Mexico. On October 15, 1950, he again entered the United States without inspection near Calexico, Calif. He voluntarily surrendered himself to this Service on February 7, 1952. His application for suspension of deportation was denied for the reason that he had been a consistent violator of immigration laws in the past. He was permitted to depart voluntarily to Mexico on September 6, 1953. He subsequently obtained permission to reapply for admission to the United States and an immigrant visa. On March 4, 1954, he was excluded from the United States for the reason that he was statutorily inadmissible in that he had previously obtained entry into the United States by use of fraud, i. e., entry in the identity of Ricardo Lemos-Martinez. The beneficiary presently resides in Tijuana, B. C., Mexico.

The beneficiary resided in Mexico City until 1943 and attended primary school in that city. His principal occupation since 1943 has been as an agricultural laborer in southern California. For the past 5 months he has been employed as a tourist inspector by the State of Baja California, Mexico, in Tijuana, Mexico. His present salary is equivalent to about \$50 per month. The beneficiary has been married twice. His first marriage was on June 11, 1937, in Mexico City, Mexico, to Guillermina Palomino, a citizen of Mexico. One child was born of that marriage in 1939. The couple was divorced in December 1949 on the complaint of the wife. She received custody of their child. The beneficiary was married to Paz Martinez, a native-born citizen of the United States on June 28, 1951, at Ventura, Calif. He has testified that he and his present spouse resided together in an illicit relationship for about 7 years prior to their marriage. Three children born outside of wedlock to the couple have been legitimated by their subsequent marriage. The couple now have four children, all citizens of the United States, and all living with their mother in Casa Blanca, Calif. The wife of the beneficiary has been employed seasonally in the citrus fruit industry, and is now receiving assistance from the State of California, Department of Public Assistance. Her grant was established in July 1954 and after September 1954 will be in the amount of \$150 per month.

The beneficiary has been arrested and convicted on pleas of guilty on five occasions. On September 26, 1936, at Mexico City, Mexico, he was arrested for disturbing the peace. Disposition of that offense is unknown. On September 20, 1943, he was arrested at Fullerton, Calif., for violation of section 502 of the California Vehicle Code (driving while intoxicated). According to the records of the Fullerton Police Department he pleaded guilty and paid a fine of \$200. On March 30, 1948, at Riverside, Calif., he was arrested for intoxication. According to the records of the Riverside, Calif. sheriff's office he pleaded guilty and paid a fine of \$25. On October 22, 1948, at Lindsay, Calif., he was arrested for intoxication. According to the records of the Lindsay, Calif., Police Department he pleaded guilty and paid a fine of \$20. On June 6, 1949, at San Diego, Calif., he was indicted for violation of title 8, United States Code, section 180 (unlawful entry after deportation from the United States, consent to reapply not having been granted). According to the records of this Service, he pleaded guilty and was placed on probation for 3 years, provided that he depart to Mexico and remain outside the United States during the period of the probation. The beneficiary has testified that he never complied with the applicable provisions of the Selective Service Act of 1940. The beneficiary has no relatives in Mexico other than his former wife and daughter. So far as is known, both live in Mexico City, Mexico. Both of his parents died in Mexico. His only relatives in the United States are his wife and four children.

Mr. Phillips, the author of H. R. 1332, appeared before a subcommittee of the Committee on the Judiciary and recommended the favorable consideration of this legislation. He stressed the fact that the beneficiary's wife and four children are presently a burden on the State and will continue to be until such time as Mr. Alfaro-Arciniega is permitted to return to the United States.

Mr. Phillips also submitted the following letters and statements in support of his bill:

STATE OF CALIFORNIA,
County of Los Angeles, ss:

I, Paz Martinez Alfaro, whose address is 7414 Diamond Street, Casa Blanca, Calif., after being first duly sworn, do depose and testify as follows:

That I was born July 25, 1923, in San Fernando, Los Angeles County, Calif., and have been a citizen of the United States ever since my said birth. That I am married and the name of my husband is Armando Alfaro-Arciniega. My husband and I have four children, all minors and all born in the United States. All of our children are entirely dependent on me and my husband for support.

That I have known my said husband Armando Alfaro-Arciniega for the past 10 years and during all of that time he has been a person of the highest ideals and a good husband and father. He has worked continuously to support me and our children and I can truthfully testify that my husband will be an asset to the United States. However, my said husband recently went to Mexico for the purpose of securing an immigration visa and upon his presenting such visa at the office of the Immigration and Naturalization Service, San Ysidro, Calif., he was refused admission to the United States.

That I am preparing this affidavit for submission to Hon. John Phillips, Member of Congress, who is the Representative in Congress from my district, with the request he assist my said husband, Armando Alfaro-Arciniega, in returning to the United States.

That my said husband's counsel, Marcus J. Pedersen, will furnish the entire facts of my said husband's case to Mr. Phillips as he is better qualified to do so and I wish to say at this time that I will be greatly appreciative for whatever can be done for my said husband as I know he is worthy of help.

PAZ MARTINEZ ALFARO.

Subscribed and sworn to before me, Marcus J. Pedersen, a notary public in and for said county and State, this 20th day of May 1954, at Los Angeles, Calif.

[SEAL]

MARCUS J. PEDERSEN.

My commission expires February 19, 1956.

UNITED STATES DEPARTMENT OF JUSTICE

BOARD OF IMMIGRATION APPEALS

BRIEF AND EXCEPTIONS IN BEHALF OF APPELLANT

File No. A5935998

IN RE ARMANDO ALFARO-ARCINIEGA, APPELLANT

FACTS

Appellant was born August 18, 1918, in Mexico City, Mexico. He first entered the United States January 23, 1943, at El Paso, Tex., as an agricultural laborer. He was given voluntary departure by the Immigration and Naturalization Service in June 1945, and departed from the United States. He applied on October 21, 1945, for a nonresident alien's border crossing identification card at Sasabe, Ariz. In the application he stated his name was Ricardo Lemus-Martinez and that he was born at Pitiquito, Sonora, Mexico. The appellant entered the United States in October 1945, with such nonresident alien's border crossing identification card.

Subsequent to the entry of appellant in October 1945, he was placed under proceedings and deported to Mexico, April 4, 1946. He returned to the United States during May 1947, and was thereafter placed under deportation proceedings. On June 17, 1949, he was permitted to depart to Mexico voluntarily. On October 15, 1950, he entered the United States and on September 6, 1953, was permitted to depart voluntarily. The appellant's application for permission to reapply for admission into the United States after deportation or removal was granted by the Immigration and Naturalization Service, Los Angeles, Calif., November 25, 1953, under its file No. 1600-20418 E. and D.

On January 22, 1954, he was granted a nonquota immigration visa by the American consular service at Mexico City, Mexico, and thereafter made application for admission to the United States on that visa at the office of the Immigration and Naturalization Service, San Ysidro, Calif. He was held for a hearing before a special inquiry officer to determine his eligibility for admission to the United States. On March 5, 1954, hearing was held at the immigration station, San Ysidro, Calif., before a special inquiry officer, and on the same date that officer rendered his decision in which he excluded the appellant from entry into the United States under section 212 (a) (19) of the Immigration and Nationality Act of 1952 on the ground of having "Obtained a visa or other documentation by fraud or by wilfully misrepresenting a material fact." The special inquiry officer used as a basis for his decision the fact of appellant having applied for and received a nonresident alien's border crossing identification card in October 1945, at Sasabe, Ariz., under the name of Ricardo Lemus-Martinez which was not his true name. It is from that decision of the special inquiry officer of March 5, 1954, that we take this appeal.

The special inquiry officer in his decision of March 5, 1954 states on page 1 thereof with reference to the appellant's having secured a nonresident alien's border crossing identification card in October 1945, in a name other than his own, the following:

"He [appellant] has testified that he made those false statements because he believed that if he had stated the true facts that he would not have been granted a border crossing identification card."

We call attention to the exact testimony in this case to show the special inquiry officer does not have any basis in fact to sustain such statement. Please refer to page 3 of the record of hearing dated March 5, 1954, in this case on which the following appears:

"Question. When you executed this application for your border crossing card, did you believe that if you gave your true name and the other facts true that you would not be admitted as a local crosser?"

"Answer. I think the crossing card will give it to me."

So, it can be seen, the appellant did not give the testimony attributed to him by the special inquiry officer.

Appellant was married to Guillermina Palomino de Alfaro on June 11, 1937, in Mexico City, Mexico. They were divorced in Mexico City, Mexico, December 15, 1949. His valid marriage to his present wife, Paz Trujillo Martinez, was on June 28, 1951, in Ventura, Calif. Ever since such marriage the appellant and his present wife have resided together as husband and wife. Sometime during the year 1945 the appellant and his present wife began residing together and have continued to reside together ever since. The appellant and his wife Paz Trujillo Martinez have 4 minor children, all born in the United States, and the appellant's wife and 4 native-born American children are completely dependent on appellant for their support.

LAW INVOLVED

Section 212 (a) (19) of the Immigration and Nationality Act of 1952 (title 8, section 1182 U. S. C. A.) which reads as follows:

"Except as otherwise provided in this Act, the following classes of aliens shall be ineligible to receive visas and shall be excluded from admission into the United States:

"Any alien who seeks to procure, or has sought to procure, or has procured a visa or other documentation, or seeks to enter the United States by fraud, or by wilfully misrepresenting a material fact;"

POINT INVOLVED

Whether it has been established the appellant actually sought to procure or procured his border crossing identification card in October 1945, by fraud or by wilfully misrepresenting a material fact?

EXCEPTIONS

1. Exception is taken to finding of fact as to excludability (4) of the special inquiry officer as not being sustained by the record.
2. Exception is taken to conclusion of law as to excludability (1) of the special inquiry officer as not being sustained by the record.
3. Exception is taken to the exclusion order of the special inquiry officer as not being sustained by the record.

ARGUMENT

In no place in the record will it be found that the appellant made false statements "in the belief that had he told the truth, he would not be granted a border-crossing card" as stated in the finding of fact as to excludability (4) of the decision of the special inquiry officer. In no place in the record is it shown that the appellant would not have been issued a nonresident alien's border-crossing card had he told the truth when he applied for such a card on October 21, 1945. Also, there is nothing whatsoever in the record to indicate in any way whatsoever that appellant intended to or actually did perpetrate any fraud whatsoever in applying for such a card in a name other than his own.

In view of the above and also the further fact that the special inquiry officer states on page 2 of his decision: "The record establishes that the only grounds for exclusion of the applicant are under the section of law stated in the heading. Although there are very appealing factors in this case, the law does not permit any discretionary waiver of the applicant's excludability as an immigrant," we believe in all justice to the appellant and particularly to his wife and four minor citizen children, all of whom are dependent on him for support, the record does support the finding that he has not obtained a visa or other documentation by fraud or by willfully misrepresenting a material fact. We submit that this is the just finding to be made by the reviewing authorities and that the exclusion order of the special inquiry officer should not be sustained.

While counsel does not condone appellant's transgressions, he does want to point out that if anyone could see and associate with the appellant and his family such as counsel has when they have called at his office on many occasions previous to departure of the appellant to Mexico last year, the only conclusion such person could reach would be that that family was as nice a family as one could find anywhere, all of them clean, polite, and intelligent, and the children well behaved.

Counsel is fully aware that the immigration laws of the United States should be enforced and is in favor of such a policy; however, when the record does not contain the necessary elements, such as the record in this case, to sustain an exclusion order, the exclusion order should not be sustained.

We sincerely submit the record does not sustain the exclusion order in this case and that this appeal should be sustained.

Respectfully submitted,

MARCUS J. PEDERSEN,
Counsel for Appellant.

LOS ANGELES, CALIF., March 11, 1954.

RIVERSIDE COUNTY DEPARTMENT OF PUBLIC WELFARE,
Riverside, Calif., March 12, 1954.

Re Alfaro, Armando.

MARCUS J. PEDERSEN,
Attorney, Los Angeles 13, Calif.

DEAR MR. PEDERSEN: We enclose copies of two letters we have written to the immigration authorities regarding the case of Mr. Alfaro. We believe that they are self-explanatory. We will appreciate any information you may be able to give us or any suggestions regarding further action which we may take in behalf of Mr. Alfaro.

Very truly yours,

JOHN E. MCINTYRE, *Director*
By VIRGINIA D. KENT, *Social Worker.*

MARCH 12, 1954.

Re Alfaro, Armando, 7450 Evans Street, Casa Blanca, Calif. (Riverside), County No. 25979.

Los Angeles Immigration and Naturalization No. 1600/20418 B. and D.

BOARD OF APPEALS,
United States Department of Justice,
Immigration and Naturalization Service,
Washington, D. C.

DEAR SIRs: Armando Alfaro is at present in Tijuana, Mexico, awaiting authorization to enter the United States legally. According to information we received in December 1953, from the office of the district director of the Immigration and

Naturalization Service in Los Angeles, his application to reapply for admission into the United States after deportation or removal was granted by that office November 25, 1953, and the Visa Division of the Department of State was so notified. On March 11, 1954, his wife, Paz Alfaro, informed us that he had obtained his visa some time ago, but still was not permitted to enter the United States. It was her understanding that a hearing was to be held the week of March 15 to 19 by the Board of Appeals in Washington, D. C., to determine the final outcome of his case. Inasmuch as we would not have enough time to check this matter with the Los Angeles district office, we are writing in his behalf and hoping that this letter will reach the proper authorities in Washington.

Mr. Alfaro's family consists of his wife, Paz, and four sons, aged 2 to 8 years. She and the children were all born in California and have lived here continuously. Our records show that the small amount of assistance rendered by the Riverside County Department of Public Welfare and the Riverside County General Hospital during a period when Mr. Alfaro was in Mexico was repaid by him when he later returned to Riverside. Mr. Alfaro has supported his family very adequately when in the home, according to his wife. She tells us that he is well educated and has had jobs requiring shorthand and typing, and has had no difficulty finding employment.

Mrs. Alfaro is unskilled and does seasonal work in the citrus packing houses in this vicinity. Her parents assist her at present, although their income is very small. As she and her mother both work, the children are not getting adequate supervision and Mrs. Alfaro is having difficulty managing them. She stated that Mr. Alfaro is a very good father, and that he also keeps the children under control when he is in the home. She does not work outside of the home when her husband is supporting the family. Mr. Alfaro has been in Mexico since September 1953, and the family is finding it hard to manage. Their income at present is below aid-to-needy-children budget standards and unless Mr. Alfaro returns home soon, it will be necessary to give this family public assistance.

We hope that the foregoing information regarding the social and economic status of this family in our community may be of some assistance to you in deciding upon this appeal. We will appreciate hearing from you regarding your decision in Mr. Alfaro's case.

Very truly yours,

DEPARTMENT OF PUBLIC WELFARE,
JOHN E. MCINTYRE, *Director*,
By (Mrs.) VIRGINIA D. KENT,
Social Worker.

MARCH 12, 1954.

Re Alfaro, Armando, Co. No. 25979.

Your No. 1600/20418 E. and D.

DISTRICT DIRECTOR,

*United States Department of Justice,
Immigration and Naturalization Service,
Los Angeles 13, Calif.*

DEAR SIR: We enclose a copy of a letter which we have written this date to the Board of Appeals in Washington, D. C. Mrs. Alfaro informed us that her husband's case would come up the week of March 15-19, and we did not think that there would be time to clear this matter with you before sending our letter. Mrs. Alfaro also stated that Mr. Alfaro has his visa but still has not been permitted to reenter the United States.

The family is in economic straits and will need assistance unless Mr. Alfaro is permitted to return home soon. We will appreciate any information you can give us regarding his present status, and the probable length of time it may take before a decision can be reached on his case. Your cooperation is greatly appreciated.

Very truly yours,

DEPARTMENT OF PUBLIC WELFARE,
JOHN E. MCINTYRE, *Director*,
By (Mrs.) VIRGINIA D. KENT,
Social Worker.

Elvira Villasenor Din.—H. R. 1335, by Mr. Phillips

Mrs. Din is a native and citizen of Mexico whose husband is a lawfully resident alien in the United States. She is inadmissible to this country because she endeavored to withhold material facts when applying for admission to this country and because of the admission of a crime involving moral turpitude, to wit, perjury. Mrs. Din and her husband have one child who is a United States citizen by birth.

The pertinent facts in this case are contained in a letter dated May 23, 1955, from the Commissioner of Immigration and Naturalization to the chairman of the Committee on the Judiciary. That letter and accompanying memorandum read as follows:

UNITED STATES DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington 25, D. C., May 23, 1955.

HON. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: In response to your request of the Department of Justice for a report relative to the bill (H. R. 1335) for the relief of Elvira Villasenor Din, there is attached a memorandum of information concerning the beneficiary. This memorandum has been prepared from the Immigration and Naturalization Service files relating to the beneficiary by the El Centro, Calif., office of this Service, which has custody of those files.

The bill would waive the provisions of the Immigration and Nationality Act which exclude from admission into the United States aliens to whom consent has not been granted to their reapplying for admission to the United States after exclusion and deportation, and aliens who have procured visas or other documentation by willfully misrepresenting a material fact, and would grant the beneficiary permanent residence if she is found to be otherwise admissible. The bill would also provide that this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this act. It is noted that the beneficiary may also require a waiver of the provisions of section 212 (a) (9) as an alien who admits having committed a crime involving moral turpitude (perjury).

Sincerely,

_____, *Commissioner.*

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION
SERVICE FILES CONCERNING ELVIRA VILLASENOR DIN, BENEFICIARY OF
H. R. 1335

Elvira Villasenor Din, who is also known as Elvira Villasenor de Gomez, is an alien and a citizen of Mexico by birth at Ameca, Jalisco, Mexico, on January 26, 1910. She was married to Rokn Din at El Centro, Calif., on July 10, 1950. Prior to such marriage, a son, Santos Anthony Din, was born to them at El Centro, Calif., on October 31, 1949.

The husband reports that the beneficiary had never been married before, although she lived out of wedlock in Mexico with a man named Gomez; and that as a result of such relationship, a son, who is now 10 or 11 years old, was born to her at Ameca, Jalisco, Mexico. He further alleges that the father of this child died in Mexico on March 28, 1949, as a result of a gunshot wound. Death certificate was presented. Both of the children are residing with the mother in Mexico.

The beneficiary, under the name of Elvira Villasenor de Gomez, was granted the nonresident alien's border crossing privilege at the port of Calexico, Calif. on November 18, 1948. At that time she alleged that she was married by civil ceremony to Juan Gomez-Medina. She and her Mexican-born son were found residing in the United States unlawfully and were accorded the voluntary departure privilege at the port of Calexico on June 11, 1952. She was denied an immigrant visa on June 15, 1954, by the American consulate at Tijuana, Baja California, on the ground of perjury.

Rokn Din, the beneficiary's husband, is a native and citizen of Pakistan, by birth at Ludhiana, Punjab, Pakistan, on or about October 14, 1889. He was admitted for permanent residence to the United States at Seattle, Wash. on

August 30, 1912. This is his third marriage. His first marriage terminated by death of his wife in India about 1930. This marriage resulted in the birth of two children, both of whom are residing in Pakistan. In 1934 he married Jesus Osorio; and of this marriage, two children were born in the United States, one in 1934 and the other in 1935. This marriage terminated by divorce on June 6, 1949. Rokn Din contributed \$50 a month for the support of these two children until some time last year. The third marriage was to Elvira Villaseñor.

He has only one relative in the United States, a cousin with whom he resides on a ranch near El Centro. He stated that he has an income of about \$200 a month. His assets consist of 80 acres of land, property deed for which was presented, and an automobile which he values at about \$1,000.

The Department of State also submitted a report on this case which reads as follows:

DEPARTMENT OF STATE,
Washington, June 8, 1955.

HON. EMANEUL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives.*

DEAR MR. CELLER: Reference is made to your letter of March 3, 1955, and its enclosures, wherein you requested a report of the facts in the case of Mrs. Elvira Villaseñor Din, beneficiary of H. R. 1335, 84th Congress, 1st session.

A report recently received by the Department from the American consulate at Tijuana, Mexico, reads as follows:

"The records of the consulate show that Elvira Villaseñor de Din submitted a preliminary application for an immigrant visa on April 30, 1954, and was refused informally on June 15, 1954, under section 212 (a) (9) of the Immigration and Nationality Act. This refusal was based on a report received from the consulate at Mexicali showing that she had been refused at that office on June 18, 1952, as an alien who admits the commission of a crime involving moral turpitude."

The full details in this case were reported to the Department in an earlier communication from the consulate at Mexicali. In this connection there is transmitted a copy of a letter dated May 6, 1953, addressed to the Honorable John Phillips, sponsor of H. R. 1335, which letter embodies the details reported by the consulate at that time.

At this time the Department has no knowledge of any factor in Mrs. Din's case, other than the information hereinbefore cited, which would render her ineligible to receive an immigrant visa. However, it should be borne in mind that any other ground of ineligibility which may come to light prior to visa issuance would preclude Mrs. Din from receiving a visa.

Sincerely yours,

ROLLAND WELCH,
Director, Visa Office.

MAY 6, 1953.

HON. JOHN PHILLIPS,
House of Representatives.

MY DEAR MR. PHILLIPS: I refer to previous correspondence concerning your interest in the immigrant visa application of Mrs. Elvira V. de Din.

The American consulate at Mexicali, which was requested to submit a report on this case, has informed the Department that its records show that Mrs. Din first appeared at the consulate on June 11, 1952, to apply for an immigrant visa, having just been given voluntary return from El Centro, Calif., where she had lived since 1948. She stated that she had one child born in the United States of her union with Mr. Rokn Din, whom she married in 1950 and that the child applying with her, born in Guadalajara in 1944, was illegitimate. She also stated that she had lost a border-crossing card issued to her at Calexico with which she had entered the United States in 1948.

After checking with the United States Immigration Office at Calexico, the consulate questioned Mrs. Din concerning the statement in her sworn application for a border-crossing card on November 18, 1948, that she was married to Juan Gomez-Medina on January 12, 1943, by civil ceremony in Ameca, Jalisco, Mexico. This application was made under the name of Elvira Villaseñor de Gomez. Mrs. Din admitted that she remembered taking an oath that her statements in the application were true and that she had deliberately lied in stating that she was married, on the bad advice that if she told the truth about her unmarried status she would not be granted the border-crossing card.

On the basis of the facts brought out in the examination of Mrs. Din's case, the consulate concluded that she had admitted the commission of the essential elements of a crime involving moral turpitude, to wit, perjury. Furthermore, it was considered that her false statements were material to her obtaining a border-crossing card. She, therefore, was found to be inadmissible into the United States under the moral-turpitude clause of the immigration laws and an immigrant visa was refused her on June 18, 1952.

Mrs. Din later returned to the consulate with her husband in an endeavor to have her case reopened and gave the same admissions as before that she knowingly made the false statements on her application for a border-crossing card regarding her name and her marital status. The consulate again reached the decision that Mrs. Din was ineligible to receive a visa as a person who has admitted the commission of the essential elements constituting the offense of perjury.

Section 212 (a) (9) of the Immigration and Nationality Act renders ineligible to receive visas and excludes from admission into the United States aliens who have been convicted of a crime involving moral turpitude (other than a purely political offense), or aliens who admit having committed such a crime, or aliens who admit committing acts which constitute the essential elements of such a crime. The only exception made in the law is for aliens who have committed only 1 such crime while under the age of 18 years.

Sincerely yours,

EDWARD S. HANEY,
Director, Visa Office.

Mr. Phillips, the author of H. R. 1335, appeared before a subcommittee of the Committee on the Judiciary and submitted the following statement and letters in support of his bill:

H. R. 1335, FOR THE RELIEF OF ELVIRA VILLASENOR DIN—STATEMENT BY MR. PHILLIPS, FEBRUARY 27, 1956

Mrs. Elvira Villaseñor Din is a citizen of Mexico. She came into the United States through Calexico, Calif., November 18, 1948, at which time she received a crossing card. She is married to Rokn Din, a native of Pakistan, who has lived and farmed in Imperial Valley, which is in my congressional district, since 1913. Rokn Din owns 80 acres of good farmland and leases 120 additional acres upon which he is raising cotton, sugar beets, and alfalfa. Mr. Din is financially independent and has a good reputation as to honesty and integrity. This couple started living together in 1949. In October 1949, a male child was born in the El Centro, Calif., hospital. The couple married July 10, 1950, and lived together in the valley until early in 1952, when Mrs. Din was required to leave the United States by a voluntary departure to Mexicali, Mexico, after an investigation was started by the Immigration Service.

In June 1952 Mrs. Din was denied the right to reenter the United States by the American consul because the statements in her sworn application for a border-crossing card were false.

On November 18, 1948, when Mrs. Din first applied for a border-crossing card, she stated she was married to Juan Gomez-Medina on January 12, 1943. In fact, no such marriage had ever occurred although she was Gomez' common-law wife and had borne him one illegitimate child. Mrs. Din admitted that she remembered taking an oath that her statements in the application were true and that she had deliberately lied in stating that she was married, on the bad advice that if she told the truth about her unmarried status she would not be granted the border-crossing card.

Since that time, Mrs. Din has been unable to reenter the United States, because of the moral-turpitude clause of the immigration laws, and with the son, Santos Anthony Din, who is a citizen of the United States, is compelled to reside in Mexicali, Mexico. Because of the tender age of the boy, it is necessary that he be with his mother.

Rokn Din still maintains the home on his ranch in El Centro, Calif. The situation, which has apparently been brought about through a misunderstanding and by no fault on the part of Din or the minor son, is working a great hardship on both.

EL CENTRO, CALIF., February 2, 1954.

In re Elvira Villasenor Din.

HON. JOHN PHILLIPS,

*Congressman, 29th District of California,
House Office Building, Washington, D. C.*

DEAR MR. PHILLIPS: The above-captioned woman, Elvira Villasenor Din, is a citizen of Mexico. She came into the United States through Calexico, Calif., November 18, 1948, at which time she received a crossing card.

She married Rohn Din, a citizen of Pakistan who has lived and farmed in Imperial Valley since 1913. Rohn Din owns 80 acres of good farmland and leases 120 additional acres upon which he is raising cotton, sugar beets, and alfalfa. Mr. Din is financially independent and has a good reputation as to honesty and integrity.

This couple started living together in 1949. In October 1949 a male child was born in the El Centro Hospital. The couple married July 10, 1950, and lived together in the valley until early in 1952 when Mrs. Din was required to leave the United States by a voluntary departure to Mexicali, Mexico, after an investigation was started by the Immigration Service.

In June 1952 Mrs. Din was denied the right to reenter the United States by the American consul in Mexicali. At this hearing, I am informed, Mrs. Din appeared alone and with no outside advice.

Since that time, Mrs. Din has been unable to reenter the United States, and with the son, Santos Anthony Din, who is a citizen of the United States, is compelled to reside in Mexicali, Mexico. Because of the tender age of the boy, it is necessary that he be with his mother.

Rohn Din still maintains the home on his ranch. The situation, which has apparently been brought about through a misunderstanding and by no fault on the part of Din or the minor son, is working a great hardship on both.

If possible, could a special bill be introduced permitting Mrs. Din and the boy to reenter this country, so that the boy could be properly reared?

Yours truly,

JAMES E. MARABLE,
Attorney at Law.

COUNTY OF IMPERIAL,
El Centro, Calif., December 5, 1955.

In re H. R. 1335, Elvira Villasenor Din.

HON. JOHN PHILLIPS,

*Member of Congress, House Office Building,
Washington, D. C.*

DEAR MR. PHILLIPS: Since H. R. 1335 was introduced by you, and referred to the Committee on the Judiciary we have received no information as to its status.

We do understand, however, that an investigation of the case was undertaken and Rohn Din, the husband, was summoned by the local border patrol for questioning.

Would you kindly inform us of the present status of the bill, and if there is any hope of obtaining the relief requested?

Mr. Din and the minor child, a citizen of the United States, are being penalized in a supreme degree because of our inability to obtain a reentry for Mrs. Din.

Any assistance you can give us in this case will be greatly appreciated.

I thought I might write a letter to an old friend of mine, the Honorable Harry Sheppard, of San Bernardino County, who I understand works very closely with you on many bills. Not desiring to intrude myself into the matter unless you considered a request to him proper, I have delayed writing to him until advised by you.

In any event, I would appreciate having my regards delivered to him.

Yours truly,

JAMES E. MARABLE,
Judge of the Justice Court, El Centro Judicial District.

Gertrud Koch—H. R. 1237, by Mr. Mason

The beneficiary is a 32-year-old native and citizen of Germany who is the fiance of a United States citizen serviceman. She is inadmissible to the United States because of a conviction for forgery in Germany in 1948 and because she was enrolled by her father as a

member of the Communist Party in 1945 and her name remained on the rolls until 1949.

The pertinent facts in this case are contained in a letter dated July 8, 1955, from the Commissioner of Immigration and Naturalization to the chairman of the Committee on the Judiciary. That letter and accompanying memorandum read as follows:

UNITED STATES DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington 25, D. C., July 8, 1955.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H. R. 1237) for the relief of Gertrud Koch, there is attached a memorandum of information concerning the beneficiary. This memorandum has been prepared from the Immigration and Naturalization files relating to the beneficiary by the Kansas City, Mo., office of this Service, which has custody of those files.

The bill apparently is intended to exempt the beneficiary from the provisions of the Immigration and Nationality Act relating to the exclusion of aliens who have been convicted of or admit the commission of crimes involving moral turpitude. It is noted the bill makes reference to statutory provisions which are no longer applicable and does not specifically limit the exemption granted the beneficiary to grounds for exclusion of which the Department of State or the Department of Justice has knowledge prior to the date of enactment of the bill.

Sincerely,

_____, *Commissioner.*

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION
SERVICE FILES RE GERTRUD KOCH, BENEFICIARY OF H. R. 1237

Information concerning the beneficiary was furnished by Frank John Kleczewski the beneficiary's fiance and the sponsor of the bill. The beneficiary, Gertrud Koch, single, a native and citizen of Germany, was born February 3, 1924. She resides at Neustad im Odenwald, Neue 24, Germany, and is employed in a sweater factory at a salary of approximately \$30 per month. She is partially supported by the sponsor, who sends her \$50 a month.

The beneficiary has never been in the United States. According to the sponsor, the beneficiary was convicted in Höchst Odenwald, Germany in 1946 for irregularities concerning the sale of sugar and was fined 600 marks. The sponsor also stated that the beneficiary's father enrolled her in the Communist Party in Neustad in Odenwald, Germany. He was unable to furnish information as to the dates of her membership in the Communist Party and did not know whether she is still a member. The Committee may wish to make inquiry of the Visa Office of the Department of State for further information in this connection.

The sponsor, M. Sgt. Frank Kleczewski, was born at Oglesby, Ill., on March 26, 1923. He completed 3 years of high school and has served in the United States Army continuously since April 1943 except for the period from November 1945 to March 1946. He is stationed at Fort Riley, Kans. His base pay is \$235 a month, and he receives a class Q allotment of \$77.00 per month for a minor daughter by a former marriage. He has no assets. His previous marriage was terminated by divorce in May 1945. The sponsor was arrested June 9, 1938 for trespassing, and fined \$50 which was suspended. He was arrested June 24, 1939 for disorderly conduct and given one year's probation. He had one other arrest in 1938 for failure to attend high school.

The Director of the Visa Office, Department of State, also submitted a report on this case, dated January 20, 1954, regarding a bill (H. R. 859) then pending for the relief of the same person, which reads as follows:

DEPARTMENT OF STATE,
Washington, January 20, 1954.

HON. CHAUNCEY W. REED,
Chairman, Committee on the Judiciary,
House of Representatives.

MY DEAR MR. REED: Reference is made to your letter of December 16, 1953, and its enclosures, wherein you requested the views of this Department concerning

the enactment of H. R. 859, a bill for the relief of Gertrud Koch. Reference is also made to the Department's interim reply of December 17, 1953.

According to information contained in the Department's files, Gertrud Koch, who appears to be identifiable with the beneficiary of the proposed bill, was convicted of forgery on February 13, 1948, in the district court at Hoechst i. Odenwald, in that she falsified two sugar coupons to cover an unexplained shortage of twenty pounds. The foregoing information further indicates that the Court, in passing sentence, found extenuating circumstances sufficient to warrant the imposition of a fine of RM600 in lieu of a prison term of 60 days in accordance with paragraph 27 (b) of the German Criminal Code.

The Department's files further indicate that in a letter of June 3, 1952, addressed to the Honorable Noah M. Mason, sponsor of the proposed bill, the American consular officer at Frankfurt, Germany, stated that Miss Koch also appeared to be excludable from admission into the United States because of membership in an organization enumerated in the act of October 16, 1918, as amended, and as clarified by the act of March 28, 1951.

The effect of the enactment of H. R. 859 would be to remove the ground of excludability existing in Miss Koch's case only insofar as her conviction of a crime involving moral turpitude is concerned. Consequently, if the bill is enacted into law, it would appear that the other ground of apparent ineligibility in her case under the provisions of section 212 (a) (28) (C) of the Immigration and Nationality Act would still remain, thus precluding the issuance of an immigrant visa and her admission into the United States.

In the circumstances, the Department does not recommend the enactment of the proposed legislation.

Sincerely yours,

EDWARD S. MANEY,
Director, Visa Office
(For the Secretary of the State).

On February 20, 1954, the fiance of the beneficiary of this bill addressed the following letter to the then chairman of the Committee on the Judiciary:

FEBRUARY 20, 1954.

HON. CHAUNCEY W. REED,
House of Representatives,
Congress of the United States, Washington, D. C.

DEAR MR. REED: This is in reply to your letter of February 10, 1954, concerning private bill H. R. 859, introduced for the relief of my fiance, Miss Gertrud Koch. I hope that this will answer the questions you asked in your letter.

To the best of my knowledge, Miss Koch's name was entered by her father to the membership list of the German Communist Party in December 1945, when it was reactivated following the fall of the Nazis. I wish to point out here that Miss Koch's father, a victim of several Nazi jailings, was, during the period following World War II, installed as mayor of Neustadt/Odenwald by our occupation forces. He was a member of the Communist Party at the time, which was a perfectly legitimate organization as far as everyone was concerned. As I stated in my past letters, she became a member only because it was her father's desire. However, while she held this so-called membership, she never attended any meetings or rallies, signed any pledges or held any membership cards, gave any oaths of allegiance or held any positions in the party. During the period June 1948 to December 1951 she lived away from her home in Neustadt/Odenwald because of several arguments she had with her father on the subject. She was an employee of our occupation forces for several months during that time, the details of which I gave Mr. Mason in some of my past letters. In the early part of 1948, my fiance asked her father to stop paying her monthly dues since she considered it a waste of time and money. He disagreed with her, which caused her to leave home that June. In the latter part of 1948, he consented to have her name withdrawn from the membership roll. The exact date of her resignation or withdrawal is unknown, but I can safely say that this was accomplished either in December of 1948 or the very first few months in 1949. Since she never owned a membership badge of any sort, she was not asked to return anything after the resignation. As for the question as to whether or not she has been engaged in any political activities since her resignation, I can definitely say "No." I realize that the committee will have to take my word on this, but if there is some way all my statements can be checked, I would be happy if this were done. I wish, and it is my fiance's wishes, to have this affiliation with the

party cleared. She has seen our form of government at work and knows what is right or wrong. I wish to remind the committee that I have known Miss Koch since April 1948 and willing to swear under oath that what I am telling them or have told Mr. Mason is the truth to the best of my knowledge. I am sure that you will personally agree with me that she has been a victim of circumstances in this case and I hope that our lawmakers can find her fit to become one of our citizens.

Thanking you for your personal attention to this matter and hoping that the decision that is made is in my favor, I am,

Sincerely yours,

FRANK J. KLECZEWSKI,
Master Sergeant, RA36657048, 5000th ASU, Headquarters, Fifth Army,
5020 South Cornell Avenue, Chicago 15, Ill.

Mr. Mason, the author of H. R. 1237, appeared before a subcommittee of the Committee on the Judiciary and recommended the enactment of his measure, submitting the following statements in its support:

SWORN STATEMENT

I, Kunigunde Koch, sister of Gertrud Koch, declare of my own free will:

During the time between the beginning of 1948 and the middle of 1949, my sister Gertrud said again and again that she would like to separate from the Communist Party. Gertrud did not live at home at that time and came to visit only once in a while. My parents were paying the monthly dues and had possession of the membership book. I myself never belonged to the party because I was not of age when it was newly established. My father paid the last dues for my sister in June 1949 and after that I burned the membership book. After this time she never belonged to the party.

Born September 2, 1932, Neustadt in Odenwald.

(Signature) KUNIGUNDE KOCH.

This is a true translation.

GARY DANIEL,
Private, United States Army.

SWORN STATEMENT

I, Gertrud Koch, daughter of Phillipp Koch, make the following statement concerning my membership in the Communist Party:

I grew up in the home of my parents and my entire youth was spent during the time my father's political leanings were against the Nazis. At last, when the war came to a close, it is understandable that we were all very happy and could breathe freely again. I was 21 years old when the war ended and knew nothing about political parties. So it happened that my father, who was then mayor, joined the German Communist Party, which was newly established with the consent of the American military government, and also took me in as a member. All the members of my family who were of age became members at that time. I never participated in any of the political gatherings because my interest did not reach that far. My parents had a membership book which was never once signed by me. Furthermore, they paid a monthly dues. This continued until we could judge by the political situation that this party was not the best, in fact that it did objectionable things which were condemned throughout the world. At this time I and my immediate family one after the other separated from the party. I demanded the discontinuance of the monthly dues since 1948. Unfortunately I had to request this again and again, so it happened that my authentic break with the party did not come into effect until June 1949. My sister Kunigunde burned the membership book and with that the entire matter was settled. It was not until 1951 when my fiancé, who was a soldier in the American garrison, arranged for our marriage papers, that we were reminded about the entire affair. The fact that I was not a member at that time makes it difficult for me to understand that this matter should be a burden to me now.

(Signature) GERTRUD KOCH.

NEUSTADT, LAND HESSEN, GERMANY, November 21, 1955.

This is a true translation.

GARY DANIEL,
Private First Class, United States Army.

SWORN STATEMENT

I, Philipp Koch, father of Gertrud Koch, make known out of my own free will: After my daughter Gertrud wanted to separate from the Communist Party, I stopped paying the monthly dues. This occurred in June 1949. From that month on she was no longer a member of the party.

Born February 1, 1880, Neustadt in Odenwald.

(Signature) PHILIPP KOCH.

This is a true translation.

GARY DANIEL,
Private, United States Army.

Juan Nestor Vinbela-Medina—H. R. 3021, by Mr. Baldwin

Mr. Vinbela-Medina is a 33-year-old native and citizen of Mexico who is the husband of a citizen of the United States. He entered the United States in 1945 by claiming United States citizenship and was subsequently deported in 1953. He again entered this country illegally and was permitted to depart voluntarily in 1954. The beneficiary and his wife are the parents of four United States citizen children who live with their mother.

The pertinent facts in this case are contained in a letter, dated June 3, 1955, from the Commissioner of Immigration and Naturalization to the chairman of the Committee on the Judiciary. That letter and accompanying memorandum read as follows:

DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D. C., June 3, 1955.

HON. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: In response to your request of the Department of Justice for a report relative to the bill (H. R. 3021) for the relief of Juan Nestor Vinbela-Medina, there is attached a memorandum of information concerning the beneficiary. This memorandum has been prepared from the Immigration and Naturalization Service files relating to the beneficiary by the Sacramento, Calif., office of this Service, which has custody of those files.

The bill would waive the provisions of the Immigration and Nationality Act which exclude from admission into the United States aliens who admit having committed a crime involving moral turpitude, and aliens who have been arrested and deported and who again seek admission without the consent of the Attorney General, and would grant the beneficiary permanent residence if he is found to be otherwise admissible. The bill would also provide that this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to its enactment.

Sincerely,

_____, Commissioner.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION
SERVICE FILES RE JUAN NESTOR VINBELA-MEDINA, BENEFICIARY OF H.
R. 3021

Juan Nestor Vinbela-Medina, alias Ignacio Banuelos-Bonilla, also known as Juan Nestor and Nestor Binbela, was born in Tecuala, Nayarit, Mexico, on February 26, 1922, and is a citizen of Mexico. He was married on August 26, 1946, at Reno, Nev., to Martha Vera, who is a native-born citizen of the United States. By this marriage he has four daughters, all of whom were born in the United States and who reside at Vacaville, Calif., with the mother. The beneficiary now resides in Mexicali, Baja California, Mexico. He is a butcher by trade, and has also done farmwork and construction work in the United States. His wife and children are being supported by public funds while he is in Mexico. His mother, a brother, and a sister are residents of Mexico and are citizens of that country.

The beneficiary entered the United States on April 11, 1945, at El Paso, Tex., as a United States citizen by using a false birth certificate in the name of Ignacio

Banuelos-Bonilla. He was deported on July 15, 1953, on the charges that he admits having committed a crime involving moral turpitude (perjury), and that at the time of his entry he was not in possession of a valid immigration visa. He again entered the United States illegally and was permitted to depart to Mexico on February 15, 1954, at Calexico, Calif., without the institution of deportation proceedings. He last entered the United States on March 30, 1954, and was again deported to Mexico on April 7, 1954.

The Director of the Visa Office, Department of State, also submitted a report on this case which reads as follows:

DEPARTMENT OF STATE,
Washington, May 6, 1955.

HON. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives.*

DEAR MR. CELLER: Reference is made to your letter of March 3, 1955, and its enclosures, wherein you requested a report of the facts in the case of Mr. Juan Nestor Vinbela-Medina, beneficiary of H. R. 3021, 84th Congress, 1st session. There is enclosed a copy of a self-explanatory communication dated March 24, 1955, from the American consulate at Tijuana, Mexico.

At the present time there is no information in the Department's files from which it could be ascertained whether or not Mr. Vinbela-Medina would be eligible in all respects to receive a visa.

Sincerely yours,

ROLLAND WELCH,
Director, Visa Office.

OPERATIONS MEMORANDUM

MARCH 24, 1955.

To: Department of State.

From: AMCONSULATE, Tijuana, Mexico.

Subject: VISAS—Immigrant case of Juan N. Vinbela-Medina.

Ref: Department's CMV-105, March 17, 1955.

The files of the consulate contain a record of one Nestor Binbela Medina, born at Tecuala, Nayarit, Mexico on February 26, 1922, who is believed to be the same person as the subject of the Department's communication.

Mr. Binbela submitted a preliminary application for an immigrant visa on June 8, 1954, and he was informally refused a visa on October 13, 1954, under section 212 (a) (17) of the Immigration and Nationality Act.

A memorandum prepared by the officer who refused the case states as follows:

"Appl. deported April 12, 1954. Permission to reapply has been denied. (Appl. says permission was denied because he had entered the U. S. by exhibiting the birth certificate of a U. S. citizen, Ignacio Banuelos.)"

A report received from the office of the Immigration and Naturalization Service at Calexico, Calif. states as follows:

"Subject by this name deported at Calexico on April 12, 1954; Used name of Juan Nestor, father Miguel and mother Maira; 5-8; 151#; same birth date. DCW A7392061; Also on same date another person by name of Juna Vinbela, same mother and father, born Valpariso, Zac, Mex., was deported."

Mr. Baldwin, the author of H. R. 3021, appeared before a subcommittee of the Committee on the Judiciary and recommended the enactment of his measure.

Mr. Baldwin also submitted the following letters in support of his bill:

HOUSE OF REPRESENTATIVES,
Washington, D. C., February 7, 1956.

MR. WALTER BESTERMAN,
*Clerk, Subcommittee on Immigration and Nationality,
Judiciary Committee of the House,
Washington, D. C.*

DEAR WALTER: On June 16, 1955, Congressman Celler was kind enough to write me that H. R. 3021, a private bill I have introduced for the relief of Juan Nestor Vinbela-Medina, had been docketed for consideration by your subcommittee.

I would deeply appreciate it if a hearing can be scheduled as soon as possible on this bill.

The beneficiary in this case has a wife and four children who are United States citizens that are living in my district. The early passage of this bill will reunite this family, and also make it possible for the beneficiary to resume the responsibility of providing for his family, which has, in the meantime, been supported by public welfare payments, which has been a considerable financial burden to the Solano County Welfare Office.

I also wish to take this opportunity to thank you for the excellent cooperation you have shown in the past with reference to my private bills which have come under your jurisdiction. I appreciate the fair manner in which you have conducted matters concerning my district.

With kindest regards,

Sincerely yours,

JOHN F. BALDWIN,
Member of Congress.

SACRAMENTO 14, CALIF., December 28, 1954.

Re Juan Nestor Binbela.

Congressman JOHN F. BALDWIN,
House Office Building, Washington, D. C.

DEAR MR. BALDWIN: Reference is made to your letter of December 27, 1954, regarding the above-named subject. In answer to your questions, the following is being submitted.

Both the Los Angeles and San Francisco offices of the Immigration and Naturalization Service have considered this case. When the deportation hearing was first considered, the San Francisco office held the hearing. The address of the San Francisco office is 630 Sansome Street, San Francisco, Calif. When he applied for permission to reapply for admission to the United States, after deportation, the Los Angeles office, 458 South Spring Street, Los Angeles 13, Calif., made the decision. It might be well to state at this time that at the first hearing, he was ordered deported but he left the United States voluntarily. He returned to the United States illegally and was deported. That is the reason why the two offices have considered this case.

When the application for permission to reapply for admission to the United States was denied, the decision was based upon the fact that he had admitted the commission of a crime involving moral turpitude, to wit: perjury. This arose out of the fact that he had used the birth certificate of a United States citizen when he sought admission to the United States originally and also had registered under the Selective Service Act as a citizen.

The file of the Immigration and Naturalization Service lists him under the name of Juan Nestor Vinbela-Medina, File No. A7 392 061 E. and D. He claims, however, that his surname should be "Binbela".

We hope that the above will assist you in preparing the necessary documents for Mrs. Binbela. It seems to me that this is truly a hardship case. There is no question but that he did commit perjury when he sought admission to the United States, but in light of his record while in the United States and his family status, he should have been permitted to stay.

With best personal regards, I remain,

Very truly yours,

McGILVRAY, MCGILVRAY & CAMERON,
By DANIEL M. CAMERON.

JULY 14, 1954.

Subject: Nestro Binbela.

To Whom It May Concern:

The undersigned is writing in regard to Nestro Binbela, who worked on one of my ranches in 1953. He proved to be a very good worker, and cultivated, pruned, and sprayed the crops for me.

The purpose of this letter is to inform you that if he is given a visa to reenter the United States, I shall be employing him again to handle my crops. Presently, my crop is starting to ripen, and I could use him very steadily.

I am certain that if he is given the opportunity to reenter the United States, he will be self-supporting, as he is a very ambitious man.

Yours truly,

Wm. M. KING,
Route 1, Box 384, Vacaville, Solano County, Calif.

STATE OF CALIFORNIA,

County of Solano, ss:

On this 26th day of July 1954 before me, Leland Douglas Collins, a notary public in and for the said county of Solano, State of California, residing therein, duly commissioned and sworn, personally appeared William M. King known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

In witness whereof I have hereunto set my hand and affixed my official seal in the said county of Solano the day and year in this certificate first above written.

[SEAL]

LELAND DOUGLAS COLLINS,
Notary Public.

My commission expires July 25, 1956.

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LEGISLATIVE REFERENCE SERVICE

Washington 25, D. C.

TRANSLATION (SPANISH)

To Whom It May Concern:

Fidencio Ramirez Burciaga, head of the municipality [mayor] of this town, certifies that Mr. Nestor Bimbela Medina, native and resident of this town, is an honest and industrious individual, and that the office, of which I am in charge, has no unfavorable information concerning him with respect to any crime [he may have committed].

And this document was issued at the request of the interested party for such legal purposes as he may desire to use it for, at Valparaiso, Zacatecas, on July 14, 1954.

FIDENCIO RAMIREZ BURCIAGA.
(Seen) ENRIQUE RIVAS Y R.

VACAVILLE POLICE DEPARTMENT,
Solano County, State of California, July 30, 1954.

To Whom It May Concern:

This is to verify that this department has no record of Juan Nestor M. Binbela, of 124 Scroggins Lane, Vacaville, Calif., having ever been in trouble of any kind.

C. ELMER KING, Chief of Police.

Upon consideration of all the facts in each case included in the joint resolution, the committee is of the opinion that House Joint Resolution 566, as amended, should be enacted and accordingly recommends that the joint resolution do pass.



I am certain that if he is given the opportunity to reenter the United States, he will be self-supporting as is a very common man.

James H. Hays

Wm. M. Hays

Room 1, Box 321, Newark, New Jersey, U.S.A.

State of California

County of Solano, ss:

On this 28th day of July 1931 before me, Roland Douglas Collins, a notary public in and for the said county of Solano, State of California, residing therein, duly commissioned and sworn, personally appeared William M. Hays known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal in the said county of Solano this day and year in this writing first above written.

Given

Roland Douglas Collins

Newark, N.J.

My commission expires July 23, 1932.

THE JOURNAL OF CONGRESS

LEGISLATIVE BETWEEN MEMBERS

Washington 25, D. C.

THURSDAY, JANUARY 28, 1931

Mr. Hays to Mr. Hays

William Hays, brother of the deceased, head of the municipality of this town, writes that Mr. Hays, brother of the deceased, head of the municipality of this town, is an honest and industrious individual, and that the office of which I am in charge, has no unfavorable information concerning him with respect to any crime for which he might be convicted.

And the document was issued at the request of the interested party for each of the reasons as he may desire to use it for a purpose, Washington, on July 14, 1931.

William Hays, brother of the deceased

(Room) William Hays, Y. H.

Legislative Police Department

Solano County, State of California, July 20, 1931

Mr. Hays to Mr. Hays

This is to certify that this document has no record of John Hays, M. Hays, of 121 Westgate Lane, Newark, Calif., having ever been in trouble of any kind. Of Hays, Hays, Calif. of Hays.

Upon consideration of all the facts in each case included in the joint resolution, the committee is of the opinion that House Joint Resolution 508, as amended, should be enacted and accordingly recommends that the joint resolution do pass.